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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,253	02/08/2006	Lasse Wesseloft Mogensen	12706/15	7059
757 7590 06/25/2008 BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610				
EXAMINER DONDERO, WILLIAM E				
ART UNIT 3654		PAPER NUMBER		
MAIL DATE 06/25/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/526,253

**Applicant(s)**

MOGENSEN ET AL.

**Examiner**

WILLIAM E. DONDERO

**Art Unit**

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)  
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :04/21/2006, 03/27/2006, 07/01/2005,02/28/2005.

## **DETAILED ACTION**

### ***Drawings***

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the shading in Figures 6 and 7 do not allow the features to be seen and identified. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slot for the attachment device (Claim 8) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claim 1 is objected to because of the following informalities: "a wall" should be changed to - one of said walls- in line 5; the word "out" should be deleted from line 16; and "with" should be changed to - width- in line 17. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: "a wall" should be changed to - one of said walls- in line 6; the word "out" should be deleted from line 17; and "with" should be changed to - width- in line 18. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the internal area" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Further regarding Claims 9-12, there appears to be no method steps in any of the claims, usually beginning with a verb ending in -ing.

Claim 9 recites the limitation "the internal area" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the inlet opening" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Regarding Claim 9, Lines 20-23, "a second portion...situated outside the apparatus...wherein the entire or parts of the second portion of the tube is wound around the connection element" render the claim indefinite because it is unclear how can the second portion be outside the apparatus and also wound around the connecting element which is inside the apparatus.

Regarding Claim 10, it is unclear whether "a slot" in line 2 is the same as the "at least one slot" in line 6 of Claim 9. For the Office Action below it is presumed it is the same slot.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Burger et al. (US-4802638). Regarding Claim 1, Burger et al. disclose an apparatus capable of adjustment of the length of an infusion tube comprising a first wall 110; a second wall 120; at least one slot 160 arranged in one of the walls such that an infusion tube can pass through the wall; and at least one connecting element 100 connecting the first wall to the second wall, the at least one slot extending from the periphery of the wall radially towards the internal area of the wall; the connecting element being secured at a

distance to a peripheral circumference of the walls; the apparatus further comprising an inlet opening (shown but not numbered) being provided by a distance between the walls in a radial distance to the connecting element characterized in that inner faces of the first and second walls converge from the connecting element towards the inlet opening, the opening having a width measured between the walls capable of allowing passage of a single infusion tube (Figures 1-12). Regarding Claim 2, Burger et al. disclose the first and second walls are identically configured bodies arranged in parallel and opposite to each other (Figures 1-12). Regarding Claim 3, Burger et al. disclose that the connecting element comprises a cylindrical unit, the longitudinal axis of which is located perpendicular to the inner faces of the first and second walls (Figures 1-12). Regarding Claims 4-5, Burger et al. disclose the entire apparatus, including the walls are, at least in the area delimiting the inlet opening, manufactured from an elastic material (See Figures 5-6; Column 3, Lines 20-63). Regarding Claims 6-8, Burger et al. disclose an attachment device, a clip device 200, integrated with the first or second wall for mounting the apparatus on a carrier face, and at least one slot 180 is formed in the wall in which the attachment device for mounting the apparatus on a carrier face is arranged (Figure 12).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burger et al. (US-4802638) in view of Shober, Jr. et al. (US-5265822). Burger et al. disclose a method of adjusting the length of an elongate material using an apparatus comprising a first wall 110; a second wall 120; at least one slot 160 arranged in one of the walls such that an elongate material can pass through the wall; and at least one connecting element 100 connecting the first wall to the second wall, the at least one slot extending from the periphery of the wall radially towards the internal area of the wall; the connecting element being secured at a distance to a peripheral circumference of the walls; an inlet opening (shown but not numbered) extending around the connecting element, the opening being provided by a distance between the walls in a radial distance to the connecting element, the apparatus further comprising inner faces of the first and second walls converging from the connecting element towards the inlet opening, the opening having a width measured between the walls capable of allowing passage of an elongate material, wherein the elongate material is pressed through the opening such that a first portion and a second portion of the elongate material is caused to be situated outside the apparatus and a third portion is delimited by the walls; wherein the entire or parts of the third portion of the elongate material is wound around the connecting element; and wherein the first and second end portions of the tube are secured in the slot or the inlet opening (Figures 1-12). Burger et al. further disclose the first portion of the elongate material is secured in the slot extending from the peripheral circumference of the one wall and towards the internal area of the wall (Figures 1-12). Burger et al. additionally disclose that a free elongate material portion is secured at the



delimitation of the inlet opening provided at the walls, the delimitation comprising a thermoplastic elastomer (Figures 1-2; Column 3, Lines 20-63). Burger et al. also disclose the second elongate material portion is secured in the slot extending from the one peripheral circumference of the one wall and towards the internal area of the wall (Figures 1-12). Burger et al. is silent about the elongate material being an infusion tube. However, Shober, Jr. et al. disclose a reel 10 for an infusion tube 30 (Figures 1-8). Because both Burger et al. and Shober, Jr. et al. teach a reel for an elongate material, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the infusion tube of Shober, Jr. et al. for the elongate material of Burger et al. to achieve the predictable result of storing and dispensing the infusion tube as taught by Shober, Jr. et al.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Epstein, Remeczky, and Cook are cited for disclosing similar reels for storing and dispensing elongate material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM E. DONDERO whose telephone number is (571)272-5590. The examiner can normally be reached on Monday through Friday 6:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. E. D./  
Examiner, Art Unit 3654

/Peter M. Cuomo/  
Supervisory Patent Examiner, Art Unit 3654